Criminal History Record Information (CHRI) FAQ

1. Why do we have to pick a new authorized agent to receive fingerprint based CHRI? Why can’t our management company/HR company continue to provide this service?
   1. Michigan has been out of compliance with Public Law 92-544 in allowing private vendors/management companies to have access to fingerprint based CHRI. The recent directive from the Michigan State Police (MSP) will bring Michigan into compliance with federal law.
2. Who is authorized to view the fingerprint based CHRI?
   1. The following individuals are examples in our current situation identified as authorized user/personnel to view fingerprint based CHRI (the “authorized agent”):
      1. Current board members of the Academy
      2. Direct hire of the board
      3. Direct hire of the local ISD
      4. Direct hire of the local K-12 District
      5. Direct hire of the Authorizer\*
3. *\**Why hasn’t GVSU offered to provide this service?
   1. At this time, GVSU’s Board of Trustees is unable to authorize the University to act as the authorized agent.
4. How do we designate an authorized agent to receive fingerprint based CHRI?
   1. Fill out the attached Criminal History Record Information Registration Form and send it to the MSP, per the instructions at the top of the form, no later than October 12, 2015. It is also due to GVSU via Epicenter no later than October 9, 2015.
5. Can we change the authorized agent, if necessary?
   1. Yes. If the authorized agent needs to change, update the Criminal History Record Information Form and re-send to the MSP and GVSU.
6. What will the authorized agent’s responsibilities include?
   1. The authorized agent will receive all fingerprint based CHRI. The authorized agent will review results and determine whether or not the potential employee is suitable for hire or if there are any disqualifiers. Michigan Department of Education (MDE) has a web page dedicated to Criminal History Checks & Convictions Info to assist you in this process. Additionally, webinar training will be provided courtesy of MDE on October 7, 2015, details to be forwarded by MDE. Based on the results, the authorized agent will send a “Red Light/Green Light Letter” to the school to retain on file and to the hiring agency/management company.
7. Where can we find a red light/green light letter template?
   1. The MSP has provided a template—it can be found at the end of this document (“Determination for Assignment”), or here: [Template](http://michigan.gov/documents/msp/Determination_for_Assignment_and_Instructions_462273_7.docx). Additional forms can be found on the MSP’s [website](http://michigan.gov/msp/0,4643,7-123-1593_24055-356434--,00.html).
8. Can an authorized agent work for multiple school boards?
   1. Yes, so long as each board is listed as the employer of the authorized agent. For auditing purposes, if an agent works for multiple schools, the individual will be required to produce check stubs or W2 for each individual school they work for.
9. Can our school principal be the authorized agent?
   1. The principal may be the authorized agent ***if he/she is already a direct hire of the board.***  If the principal’s employer of record is a 3rd party vendor (Axios, HRES, etc) or the management company, he/she may not be the authorized agent.
10. Who pays the authorized agent?
    1. The authorized agent’s payment source will vary, depending on who is listed as the employer of record.
       1. If the authorized agent is a direct hire of the board, the payment should come directly from the board’s account.
       2. If the authorized agent is a direct hire of the local ISD or local K-12 district, there should be a contract or memorandum of understanding (MOU) in place between the local ISD/K-12 district and the academy board. The contract or MOU should clarify services being provided and compensation for services. Likely scenario will be that the local ISD/K-12 district pays the authorized agent directly and the board pays the local ISD/K-12 district for their services directly from the board’s account.
       3. If the authorized agent is a current member of the board, he/she may not be paid for this service.
11. Does the authorized agent have to be fingerprinted?
    1. If the agent is a board member, they do not need to be fingerprinted to act as the authorized agent. If the board direct hires an authorized agent, that person is required to be fingerprinted. The board can consult with board legal counsel on the results of the check.
12. Where should the CHRI records be maintained?
    1. If a board member or direct hire of the board is the authorized agent, the records are to be retained and secured on-site at the school and only accessible to the authorized user/personnel.
13. Where can the authorized agent receive the necessary training?
    1. GVSU recommends the authorized agent request training from the company that is currently providing this service to the Academy. Board legal counsel could also provide guidance on disqualifiers and screening requirements that are provided in statute. Additionally, as mentioned above in Question 6, the Michigan Department of Education (MDE) has a web page dedicated to Criminal History Checks & Convictions Info to assist you in this process. Additionally, webinar training will be provided courtesy of MDE on October 7, 2015, details to be forwarded by MDE. The tutorial found [here](http://www.michigan.gov/documents/msp/111ICHAT_Tutorial_How_To_Read_a_Criminal_History_421673_7.pdf) might also be helpful.
14. What are the consequences of not naming an authorized agent to receive the fingerprint based CHRI?
    1. On October 13, 2015, the MSP will run a comparison of all registration forms received against those that have not submitted. Those found out of compliance will have their access to fingerprint based CHRI restricted until the registration form is returned with an appropriate designated authorized agent.

Further question? Contact:

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**Determination for Assignment**

**Requirement**

Access to CHRI is governed by a series of state and federal laws, including Title 28, U.S.C., § 534 (B); Title 42, U.S.C., § 14616, Article IV (c); Title 28, C.F.R., § 50.12 (B); Title 28, C.F.R., § 20.21(2); wherein no agency or individual shall confirm the existence or nonexistence of Criminal History Record Information (CHRI), a subset of CJI, to any unauthorized entity or nongovernmental entity. Therefore, language must be limited to generalized “cleared” or “not cleared” for employment. In addition, the FBI requires that status notification language not directly indicate that a suitability determination was based on an FBI criminal history record check.

**Purpose**

This sample document was the result of a statewide change wherein a private entity (contractor) could no longer be in receipt of CHRI responses, either by direct request of the Michigan State Police (MSP) or through exchange with a Noncriminal Justice Agency (NCJA). This Determination for Assignment is a method commonly referred to as a red light/green light notification. The purpose of this template is to give your agency a sample tool that meets federal requirement in order to communicate with contractors for indirectly hired individuals on whether the individual is “cleared” or “not cleared” to be assigned within your agency. Your agency is in no way obligated to use this template. However, it does serve several purposes:

* It allows you to communicate with the contractor.
* It allows the contractor to place the individual within other Michigan schools and identify to the new school where a CHRI response can be located.
* It also can be used as “supporting documentation” as required by audit, as it identifies the individuals name and the position being assigned within your agency.

**Instructions**

The Determination for Assignment is provided in a Word format. This template is to be used when your agency is utilizing a contractor for individual assigned to regularly and continuously work under contract in a K-12 school education position. NCJAs may individually create red light/green light notifications. However, they are to meet the same generalized language and not directly indicate that the assignment determination was based on a FBI CHRI check.

**[AGENCY NAME] field:** Every place the field is present; the name of the agency providing the determination will be inserted.

**(L Name, F Name Middle Initial):** Is the name of the individual being assigned to the agency.

**(Contact Number):** Is the phone number of the individual being assigned, in case of follow-up.

**(Position Assigned):** Is the “position” your agency is assigning the individual too, that prompted you to request a fingerprint background check.

**Only one determination is selected, either:**

“Yes,” indicating the individual does not have a “listed offense” that, by law, would prohibit them from working and you are accepting him or her for assignment.

“Yes,” indicating while the individual does not have a “listed offense” that, by law, would prohibit them from working, your agency is choosing to not accept the individual for assignment.

“No,” indicating the individual did not meet the requirements per state law in order to clear the individual for work. Note: this selection should not be chosen if an individual has passed the background check but the NCJA is choosing not to accept him or her.

**Printed Name & Title:** Is the name and title of the NCJA employee authorized to make an assignment determination on behalf of the agency.

**Signature:** Is the signature of the NCJA employee provided in “Printed Name & Title.”

**Approval Date:** Is the date the individual was approved for assignment with your agency.

[AGENCY NAME]

DETERMINATION FOR ASSIGNMENT

(L Name, F Name Middle Initial) (Contact Number)

(Position Assigned)

Based on the information we have obtained on the above named individual, we are making the following determination:

Yes, the individual is cleared to work in a Michigan school.

Yes, the individual is cleared to work in a Michigan school. However, based on additional district/school policy and guidelines of [AGENCY NAME], we will not be accepting the individual for assignment at our district/school.

No, the individual is not cleared to work in a Michigan school.

I state I am authorized to make this determination for our district and have based my determination on current district/school policies and guidelines and current Michigan law. I understand that I am responsible to notify [CONTRACTING ENTITY] in writing if there is a change in this determination.

Printed Name & Title

Signature Approval Date